

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

18-CR-390-10 (PAE)

-v-

GREGORY CARTER,

ORDER

Defendant.

PAUL A. ENGELMAYER, District Judge:

The Court has received a renewed application for compassionate release from defendant Gregory Carter, Dkt. 520, a memorandum in support of that application, Dkt. 524 (“Mem.”), and the Government’s opposition, Dkt. 527 (“Opp’n”). These letters report the dramatic spread of COVID-19 at federal correctional institution (“FCI”) Fort Dix since June 8, 2020, when the Court denied Carter’s first application. Dkt. 457 (“Order”). The Court incorporates by reference the Order and assumes familiarity with the fact set forth therein.

For the same reasons substantially set forth in the Court’s prior Order, a reduction of Carter’s sentence is not supported by the factors set forth in 18 U.S.C. § 3553(a). 18 U.S.C. § 3582(c)(1)(A). Carter has been incarcerated since June 5, 2018, approximately 32 months. He was originally sentenced to 75 months but is scheduled to be released October 1, 2013, *see Opp’n at 2*, approximately 32 months from the date of this order.

In the Court’s Order seven months ago denying Carter’s motion for compassionate release, the Court found that release at that early point was “highly inconsistent with the § 3553(a) factors—in particular, ‘the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, . . . to provide just punishment for the offense, . . .

[and] to afford adequate deterrence to criminal conduct.” Order at 5 (quoting 18 U.S.C. § 3553(a)). The Court does not believe that a sentence, effectively, of 32 months’ imprisonment would fairly take account of the § 3553(a) factors, even considering the heightened rigors that Carter’s custody has proven and continues to entail. The Court accordingly denies Carter’s renewed application for compassionate release.

The Court, however, agrees with Carter that the unexpected hardship presented by the COVID-19 pandemic, and the particularly severe conditions it has occasioned at FCI Fort Dix and for Carter, would make a sentence below the one imposed compatible with the § 3553(a) factors—just not so far below that sentence as release today would entail. Indeed, the Government acknowledges that the situation at Fort Dix has worsened since the Court’s Order denying Carter’s first application. *See* Opp’n at 14. Accordingly, the Court’s denial of Carter’s application is, again, without prejudice to his right to bring a renewed such application later in his prison term.

The Clerk of Court is respectfully directed to terminate the motions pending at dockets 520 and 524.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: January 25, 2021
New York, New York